

VZCZCXRO6501
PP RUEHCHI RUEHCN RUEHDT RUEHHM
DE RUEHBK #5802/01 3182358
ZNY CCCCC ZZH
P 142358Z NOV 07
FM AMEMBASSY BANGKOK
TO RUEHC/SECSTATE WASHDC PRIORITY 0656
INFO RUEHZS/ASSOCIATION OF SOUTHEAST ASIAN NATIONS PRIORITY
RUEHBJ/AMEMBASSY BEIJING PRIORITY 5165
RUEHBY/AMEMBASSY CANBERRA PRIORITY 7957
RUEHUL/AMEMBASSY SEOUL PRIORITY 3912
RUEHKO/AMEMBASSY TOKYO PRIORITY 0052
RHHMUNA/CDR USPACOM HONOLULU HI PRIORITY
RUEATRS/DEPT OF TREASURY WASHINGTON DC PRIORITY
RUEKJCS/SECDEF WASHINGTON DC PRIORITY
RHEFDIA/DIA WASHDC PRIORITY
RUEAIIA/CIA WASHINGTON DC PRIORITY
RHEHNSC/NSC WASHDC PRIORITY

C O N F I D E N T I A L SECTION 01 OF 05 BANGKOK 005802

SIPDIS

SIPDIS

DEPT FOR EAP/MLS

E.O. 12958: DECL: 11/13/2017

TAGS: [PGOV](#) [PREL](#) [KDEM](#) [PHUM](#) [ASEC](#) [TH](#)

SUBJECT: NLA MOVING QUICKLY ON WIDE-RANGING INTERNAL
SECURITY ACT

REF: A. BANGKOK 5593 (SOUTHERN DETAINEES)

- [1](#)B. BANGKOK 3528 (THAI ACTIVISTS DENOUNCE DRAFT
SECURITY LAW)
- [1](#)C. BANGKOK 3502 (DRAFT SECURITY LAW SUMMARY)
- [1](#)D. BANGKOK 3402 (DOUBLE SECRET LEGISLATION: THAI
SECURITY ACT)
- [1](#)E. BANGKOK 1754 (THAILAND'S NEW SECURITY STRUCTURE:
BETTER LIVING THROUGH ISOC)
- [1](#)F. 06 BANGKOK 5711 (ALLEGED BOMB PLOT)

Classified By: Deputy Chief of Mission James Entwistle, reasons 1.4 (b)
and (d).

[1](#)1. (C) Summary. The Thai government is pushing ahead with the Internal Security Act with the National Legislative Assembly which passed the first reading by a wide margin on November 8. The Internal Security Act would provide the military, through its role in the Internal Security Operations Command, the power to act outside of judicial or parliamentary review; many see it as an effort by the military to retain a political role after the return to elected government. Despite calls by academics or human rights organizations for the NLA to reject the law, most anticipate that it will pass before the end of the month, although perhaps with substantial changes. The law may also face constitutional court review. NGOs, media and academics are beginning to mobilize against the draft; post will continue to encourage legislators and government contacts to ensure the final version, if passed, respects citizens' rights. End Summary.

ISA MOVING QUICKLY

[1](#)2. (U) The National Legislative Assembly (NLA) November 8 passed the draft Internal Security Act through the first reading by a margin of 101 votes for, 20 against, and 2 abstentions. The draft ISA had been scheduled for action in the NLA on November 7, but the first reading was re-scheduled without explanation. Thai Cabinet had approved the draft October 16. The Act will now move to an ad hoc committee for consideration of amendments.

[1](#)3. (C) According to the committee rules provided to us by a member of the National Legislative Assembly, members of the

Assembly will be permitted seven days to submit amendments of the draft to the committee. The rules permit the committee to spend two to three weeks considering the bill and amendments to the bill before returning the Act to the Assembly for second and third readings. The second reading will allow NLA members the opportunity to debate the bill article by article while the third reading would be the final vote on the Act. The NLA member predicted the bill would leave the committee in time for the NLA to vote on the draft on November 29.

14. (C) Of the twenty-four members of the committee, ten will be former senior military officers, six academics known to be pro-military and four NLA members who are critics of the bill. Four additional members will be selected by the RTG, likely by Deputy Prime Minister General (Ret.) Sonthi Boonyaratglin, the NLA member said.

BACKGROUND TO THE ISA

15. (C) Thai government officials have stressed the need for a legal framework to cope with security contingencies such as a terrorist attack. The Thai cabinet June 19 approved the Act and passed it to the Council of State for legal review. Amendments by the Council of State addressed some of the concerns raised by human rights organizations such as removing explicit power to arrest, placing the Internal Security Operations Command (ISOC) under control of the Prime Minister, and requiring cabinet approval for the imposition of curfews and other measures to maintain security. However, the proposed law still provides the military broad powers, as described below.

BANGKOK 00005802 002 OF 005

16. (C) ISOC is the successor to the Communist Suppression Operations Command (CSOC), a security apparatus created in the 1966, when communist activity in parts of Thailand represented a serious threat to national security. CSOC became ISOC in 1969; in addition to its role combating communist insurgents, it played a role in the suppression of student-led pro-democracy protests in 1976. With the end of the communist insurgency, ISOC became an organization with no clear purpose. Former Prime Minister Thaksin re-constituted ISOC as a coordinating entity for border security and anti-narcotics activities, but the organization continued to be viewed as ineffective. (Refs d and e provide more detailed background on the history and development of ISOC.)

MILITARY DOMINANT IN ISOC STRUCTURE

17. (C) The interim government has been working on the proposed reform of ISOC for months. RTG officials frequently cite the U.S. Department of Homeland Security (DHS) as the model for the proposed ISOC structure. The ISA, however, would provide the military with a central role in maintaining internal security. The Prime Minister would be the Director of ISOC but the Army Commander in Chief would be the Deputy Director. A separate Internal Security Operations Board chaired by the PM and composed of ministers, senior military and government officials, the police Commissioner-General, and other security agency heads would be established. The Board's duties are unclear but include the power to oversee, offer consultation, and make operational proposals to ISOC. The ISOC Director would be able to direct personnel from other agencies to serve at ISOC.

18. (U) ISOC's structure would extend to the regional and provincial level with commanders of the Army's four regions serving as regional ISOC Chairs, while provincial governors would chair ISOC committees in each province under the regional ISOC command. The director of the regional ISOC would be empowered to command representatives from the police, military and civilian agencies while the provincial

ISOC Director would command government officials, but not the military.

AUTHORITIES PROVIDED IN THE ISA

¶9. (U) The ISA, according to Section 6 of the draft, would grant ISOC the power and duty to "monitor, investigate, and evaluate situations that may give rise to a threat to internal security." If any matter arises which "does not yet" merit the declaration of a state of emergency, but "has a tendency to persist for a long time," and falls under the responsibility "of several government agencies," the Cabinet may pass a resolution for ISOC to take responsibility "within an assigned area." According to Section 15, in accord with this Cabinet resolution, ISOC will have the responsibility for coordinating the government response, including to "prevent, suppress, eradicate, and overcome or mitigate any matter that affects internal security." It will retain these authorities until the Prime Minister revokes them. Section 15 also provides ISOC the power to exclude from a designated area any government official whose behavior is a threat to internal security.

¶10. (U) Subsequent sections outline further areas that the ISOC may regulate. Section 17 of the draft Act would grant the ISOC Director, with approval of the Cabinet, the authority to:

- order government officials to implement any action or withhold any action,
- prohibit entry and exit from a locality, building, or area,
- establish curfews,
- prohibit the use of transportation routes,
- and interfere with electronic communications.

¶11. (U) Section 21 of the Act would curb judicial process and review. The bill stipulates that regulations, notifications, orders and actions under the Act not subject to review by the

BANGKOK 00005802 003 OF 005

Administrative Court. (Note. The Administrative Court adjudicates disputes between individuals and state organizations concerning abuses of power by the organizations. End note.) Section 22 decrees that officials performing their duties under the Act will not be subject to civil, criminal or disciplinary action if they have followed orders and believe that the orders were lawful and appropriate.

PUBLIC REACTION TO THE DRAFT

¶12. (C) Opponents to the ISA have voiced concerns that the bill would strip the legislature and judiciary of power. Somchai Homlaor (protect), a lawyer and Secretary-General of the Human Rights and Development Foundation, told us he believed the ISA is contrary to the rule of law. The ISA was unconstitutional in that it divests power from the Administrative Court and violates the Thai people's right to bring a lawsuit against the government as provided by Chapter 3, Part 1, Section 28 of the constitution, Somchai said. The ISA would also, according to Somchai, contravene Thailand's commitments under the International Convention on Civil and Political Rights (ICCPR.)

¶13. (U) The International Commission of Jurists has publicly raised concern that the ISA would provide extraordinary powers that could be used at any time. Human Rights Watch has warned that the Act would provide ISOC with exceptional powers to respond to alleged threats to national security by restricting fundamental rights and overriding civilian administration and due process of law. Meanwhile, web forums and bloggers have nicknamed the ISA the "mustache bill" in reference to Hitler.

¶14. (C) Despite the above criticisms, the Thai public and politicians have been largely mute about the law. Somchai believed this reflects the pragmatic nature of Thais; they react when an issue is immediate and pressing. Thais are now focused on the coming general election and the health of King Bhumibol, Somchai said. (Comment: In addition, we suspect that reaction has been muted because the current draft has dropped many of the more controversial elements present in earlier versions. Previous drafts had given the ISOC explicit powers of arrest, search and seizure, and the ability to prohibit political meetings that might cause "inconvenience" to the public. It included the power to recommend individuals be sent for "voluntary" six-month vocational training (ref A). (These last two provisions were only dropped last week.) The earliest versions also made the Army Commander-in-chief the ISOC director, with limited oversight from elected officials. These positive changes, however, are undercut by the very broad language on what is still permitted, particularly the power to order government officials to "implement any action or withhold any action." End comment.)

A LEGISLATIVE TRIUMPH FOR THE HARDLINERS...

¶15. (C) In addition to human rights activists highlighting concerns over the possible impact on personal and political freedoms, some in the military have told us privately that the draft Act is flawed. Lieutenant General Surapong Suwana-adth (protect), Director of Joint Intelligence at the Royal Thai Supreme Command and one of the key players in establishing the new ISOC, told us that the original intent was to provide such a legal framework to deal with security threats. For example, Thailand needed a legal structure to respond to a terrorist attack, Surapong explained. Despite the genuine effort early on to draft a bill to provide a legal structure in times of crisis, Surapong said hardline elements in the government have hijacked the Act as a means to maintain power after elections and the formation of a new government. "Hawks" have taken advantage of the power seized in the coup to enshrine into law a permanent role for the military to influence politics, Surapong explained.

... OR ENSHRINING THE ROLE OF THE MILITARY

BANGKOK 00005802 004 OF 005

¶16. (C) General (Ret.) Pallop Pinmanee, a candidate for parliament under the Motherland Party banner and former ISOC Advisor, told us the bill was a necessary tool for the military to address security challenges such as narcotics trafficking, abuse of natural resources such as the removal of trees from forests, and trade with Cambodia in stolen vehicles. Pallop said that although many in the government claim that ISOC was modeled after the Department of Homeland Security (DHS), ISOC should take on Thai characteristics as opposed to civilian control found in DHS. "Thais trust the military," Pallop said in explaining the military's dominant role in ISOC.

¶17. (C) NLA member Thawee Surarittikul (protect) told us that he believes the chief reason for the bill is the military would like to strengthen its role in politics. The military and the bureaucracy are the two pillars of the government and, as the bureaucracy is weak, the military needs to establish legal mechanisms for it to wield power to protect the country, Thawee said. (Although Thawee put a positive spin on some elements of the draft law, he subsequently voted against it on November 8.)

¶18. (C) Dr. Panitan Wattanayagorn; Associate Professor at Chulalongkorn University, advisor to PM Surayud, and a leading security analyst, explained to us that the Act was an attempt by the military to regain a prominent role in Thailand. The military desired a return to a more dominant

position because the 1997 Asian financial crisis had caused the Thai military's budget to be cut and Thaksin had favored the police, Panitan explained. Now the military was in a position of control and is worried about the pro-Thaksin People's Power Party doing well in the election. The military wants tools to deal with the situation, Panitan said.

A POLITICAL TOOL?

¶19. (C) Human rights lawyer Somchai told us that the Act could be a powerful political tool because the authorities in the bill would allow the military control of movements, meetings, and communication equipment. Despite this, political parties have been relatively quiet because they do not want to be seen as opposing the military in the run up to the election, Somchai said. The political parties also have a selfish reason to keep quiet, Somchai explained, because future Prime Ministers would have the tools to use the ISA either as a symbolic threat to opposition parties or as a tool to disrupt the opposition's political activities.

¶20. (C) Surachart Bamrungsuk, Associate Professor at Chulalongkorn University and a former security affairs advisor to Thaksin, likened the ISA to a silent coup. He said that language in the bill reflects the emergency decree that Thaksin declared on July 16, 2005, to deal with the southern insurgency. Surachart pointed to language in the ISA that had likely been copied directly from the emergency decree. While the powers in that legislation were limited to declared emergencies, the ISA would be permanent and would allow the military wider leverage in determining what constituted a security threat, Surachart said.

PROSPECTS IN THE NLA AND BEYOND

¶21. (C) While the committee review process and the second and third readings of the bill provide opportunities for opponents to amend or possibly stop the bill, the vote during the first reading of the bill points to wide support for the draft ISA among members of the junta-appointed Assembly. In discussing the bill's prospects, both Thawee and Somchai predicted the NLA would quite easily approve the bill, quite likely on November 29. This viewpoint was not unanimous. Lt. Gen. Surapong believed the NLA would be not be a rubber stamp and pointed to the NLA postponing the first reading. Surapong said the government postponed action on the bill

BANGKOK 00005802 005 OF 005

because an insufficient number of pro-military NLA members were in attendance at the NLA on November 7. Press reports indicate that the ad hoc committee examining the draft is prepared to consider substantial changes, including dropping the provision providing immunity for security personnel (Art. 22).

¶22. (C) Somchai told us that although he expects the NLA to approve the bill, there may be a sufficient number of members in the Assembly who oppose the bill to require a review by the Constitutional Court after the bill passes the NLA, but before becoming law. According to Somchai, the bill would be sent to the Court for review if twenty-five members requested such action. One such member is vocal critic Squadron leader Prasong Soonsiri; Somchai said Prasong may be able to organize sufficient opposition to make passage difficult, or at least require the court to review the bill.

COMMENT

¶23. (C) The RTG already has an emergency law which enables it to give the security forces sweeping powers if the government declares an emergency and the parliament concurs. The ISA raises concerns because it makes it even easier for

the government to give the military ill-defined powers that would seem to violate the Thai public's constitutional rights, in the name of protecting against ill-defined threats to national security. As Thailand moves closer to the general election and the end of any formal government role for the military, passage of the ISA would raise further concerns about the military's desire for continued influence in the political process.

¶24. (C) The substantial vote in favor of the ISA has caught the attention of the media and public, which is mobilizing opposition. They may be able to influence the RTG and NLA to make further changes in the draft, perhaps even resulting in a security structure that provides security forces with well-defined powers to respond to genuine threats of terrorism or natural disasters, while respecting constitutional and international norms. In the coming weeks we will continue to raise concerns about the draft law with NLA and RTG contacts.
BOYCE